IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7288 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GSRTC

Versus

GAURISHANKER A PANDYA

Appearance:

MRS VASAVDATTA BHATT for Petitioner

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 31/03/2000

ORAL JUDGEMENT

1. Mrs. Vasavdatta Bhatt, Learned Advocate is appearing on behalf of the petitioner. In the present petition, the Corporation has challenged the award passed by the Industrial Tribunal, Ahmedabad in Reference (I.T.) No.476 of 1991 dated 10th February, 1999. In the present

Reference, the dispute was raised by the concerned workman challenging the punishment of stoppage of three increments with permanent effect.

2. The brief facts of the Reference is that the concerned respondent workman Shri G.A. Pandya was on duty on bus on 13th May, 1987 from Ranpur to Ambaji. Meanwhile his bus was checked by checking staff and from three passengers though chargeable luggage was recovered by the respondent workman but no luggage tickets were issued by the respondent workman and therefore a chargesheet was served to the respondent workman and after completion of the departmental inquiry the punishment was imposed by the competent authority by order dated 15th April, 1989. Thereafter, First Appeal was filed but the same was rejected. Before the Tribunal, the Corporation has produced all necessary documents relating to the departmental inquiry. The respondent workman not having challenged legality and validity of the departmental inquiry vide Exhibit 41 and thereafter the matter was examined by the Tribunal on merits. After examining the merits, the Industrial Tribunal had come to the conclusion that looking to the finding given by the competent authority, the said finding is baseless and perverse and is not based upon any legal evidence. For that the Tribunal has discussed the evidence laid in the departmental inquiry and the Tribunal came to the conclusion that the finding given by the competent authority is contradictory in the record and therefore the Tribunal has set aside the punishment order dated 15th April, 1989 and granted the benefits to the respondent workman.

3. Mrs. Vasavdatta Bhatt submits that the Industrial Tribunal has not considered the past record of the respondent workman while deciding the said Reference in favour of the respondent workman. She also submitted that the reason given by the Industrial Tribunal is not correct and appreciations made by the Industrial Tribunal are also not warranted under the law. Therefore, prima facie the Tribunal has committed error in coming to such a conclusion.

4. I heard the learned advocates and I carefully perused the award passed by the Industrial Tribunal. The

Tribunal has considered the evidence laid in the departmental inquiry and also examined the finding given by the competent authority and thereafter the Tribunal has come to the conclusion that the findings recorded by the competent authority is contradictory, not based upon legal evidence and perverse. Therefore, in such a view which has been taken by the Tribunal that the punishment order itself is illegal, in that circumstances it is not necessary to consider the past record of the respondent workman. Past record is required to be considered when the question of punishment is required to be examined by the Tribunal. In the present case, the question of punishment has not been examined by the Tribunal but the Tribunal itself found that the finding itself is vitiated and therefore the punishment order is required to be set aside. In such circumstances, it is not necessary for

the Tribunal to go into the question of past record of the respondent workman. Therefore, according to my opinion after carefully perusing the entire award the Industrial Tribunal has not committed any error either in law or in facts and the Tribunal has not exceeded its jurisdiction which requires any interference from this court while exercising the powers under Article 226 and 227 of the Constitution of India. Therefore, the present petition having no substance on merits is summarily dismissed. Before parting with the order, in the interest of justice I am directing to the petitioner Corporation to implement the said award dated 10th February, 1999 passing Reference (I.T.) No.476 of 1991 by the Industrial Tribunal, Ahmedabad within a period of two months from the date of receiving the certified copy of the said order. Accordingly, the said petition is dismissed. No order as to costs.

(H.K. Rathod, J.)

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